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SENATE BILL 2

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2009

INTRODUCED BY

Gerald P. Ortiz y Pino

AN ACT

RELATING TO REVENUE; ELIMINATING A DEDUCTION FROM GROSS RECEIPTS FOR RECEIPTS FROM THE SALE OF SOFT DRINKS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9-92 NMSA 1978 (being Laws 2004, Chapter 116, Section 5) is amended to read:

"7-9-92. DEDUCTION--GROSS RECEIPTS--SALE OF FOOD AT RETAIL FOOD STORE.--

A. Receipts from the sale of food at a retail food store that are not exempt from gross receipts taxation and are not deductible pursuant to another provision of the Gross Receipts and Compensating Tax Act may be deducted from gross receipts. The deduction provided by this section shall be separately stated by the taxpayer.

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B. For the purposes of this section:

(1) "food" means any food or food product for home consumption that meets the definition of food in 7 USCA 2012(g)(1) for purposes of the federal food stamp program, but does not include a nonalcoholic flavored beverage containing a sweetener additive, such as corn fructose, sugar or aspartame, if the beverage is:

- (a) ginger ale, cola or any drink commonly referred to as a soft drink; or
- (b) made from powder, syrup, concentrate or any other base product intended for mixing to produce a drink commonly referred to as a soft drink; and

(2) "retail food store" means an establishment that sells food for home preparation and consumption and that meets the definition of retail food store in 7 USCA 2012(k)(1) for purposes of the federal food stamp program, whether or not the establishment participates in the food stamp program."

Section 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.